

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

WELLS FARGO BANK, NATIONAL
ASSOCIATION, AS TRUSTEE, ON BEHALF OF
THE REGISTERED HOLDERS OF CD 2017-CD3
MORTGAGE TRUST, COMMERCIAL MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2017-
CD3,

Case No. 1:23-CV-08109-JGLC

Plaintiff,

- against -

16 EAST 40 REALTY, LLC, NADER HAKAKIAN,
ALBERT MONASEBIAN, MOVING STAIRS, INC.,
A&D ENTRANCES INC., CITY OF NEW YORK
ENVIRONMENTAL CONTROL BOARD, NEW
YORK CITY DEPARTMENT OF FINANCE, AND
JOHN DOE #1 THROUGH JOHN DOE #50,

Defendants.

**DEFAULT JUDGMENT AGAINST DEFENDANTS CITY OF NEW YORK
ENVIRONMENTAL CONTROL BOARD, NEW YORK CITY DEPARTMENT OF
FINANCE, MOVING STAIRS, INC., AND A&D ENTRANCES INC.**

Upon that branch of the motion (the “Motion”) of Wells Fargo Bank, National Association, as Trustee For the Registered Holders of CD 2017-CD3 Mortgage Trust, Commercial Mortgage Pass-Through Certificates, Series 2017-CD3 (“Plaintiff”), acting by and through K-Star Asset Management LLC, a Delaware Limited Liability Company, pursuant to Fed. R. Civ. P. 55(b) seeking entry of a default judgment against Defendants City of New York Environmental Control Board (“ECB”), New York City Department of Finance (“NYC DOF”), Moving Stairs, Inc. (“Moving Stairs”) and A&D Entrances Inc. (“A&D” and, with ECB, NYC DOF, and Moving Stairs, “Defaulting Defendants”), and upon the papers filed in support of the Motion and all prior pleadings and proceedings had herein,

It is hereby DETERMINED, FOUND, ADJUDGED, DECREED, AND ORDERED THAT:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. On September 13, 2023, Plaintiff commenced this action by filing a complaint to foreclose a commercial mortgage and for other relief (as corrected on September 18, 2023 [ECF No. 5], and together with Exhibits 1-14 thereto, the “Original Complaint”).

B. On September 19, 2023, the Clerk of this Court signed and issued the Summons in a Civil Action (the “Initial Summons”) to, among other Defendants, ECB and NYC DOF [ECF Nos. 16 & 19].

C. On October 3, 2023, copies of the Initial Summons, Original Complaint, and supporting papers were served upon NYC DOF and ECB pursuant to pursuant to Fed R. Civ. P. 4(j)(2)(B) and N.Y. C.P.L.R § 311(a)(2), as evidenced by the affidavits of service filed with this Court on October 5, 2023 [ECF Nos. 25-26].

D. NYC DOF and ECB were required to serve their respective responses to the Original Complaint by October 24, 2023.

E. NYC DOF & ECB failed to answer or otherwise respond to the Original Complaint, and the deadline for doing so has expired and has not been extended.

F. Pursuant to Fed. R. Civ. P. 15(a)(2), on December 14, 2023, Plaintiff filed a Verified Amended Foreclosure Complaint, dated December 13, 2023 [ECF No. 31] (the “First Amended Compliant”). The First Amended Complaint did not assert any new claim against NYC DOF or ECB. Therefore, pursuant to Fed. R. Civ. P. 5(a)(2), service of the First Amended Complaint upon NYC DOF and ECB was not required.

G. On December 22, 2023, the Clerk of this Court signed and issued the Summons in a Civil Action (the “Subsequent Summons”) to Moving Stairs and A&D.

H. On December 29, 2023, copies of the Subsequent Summons, First Amended Complaint, and supporting papers were served upon A&D and Moving Stairs pursuant to the following rules and statutes: Fed. R. Civ. P. 4(h)(1)(A); N.Y. C.P.L.R. § 311(a)(1); N.Y. Bus. Corp. Law §304(a); and N.Y. Bus. Corp. Law § 306(b)(1).

I. A&D and Moving Stairs were required to serve their respective responses to the First Amended Complaint by January 19, 2024.

J. A&D and Moving Stairs failed to answer or otherwise respond to the First Amended Complaint, and the deadline for doing so has expired and has not been extended.

K. Pursuant to Fed. R. Civ. P. 15(a)(2), on June 6, 2024, Plaintiff filed a Verified Second Amended Foreclosure Complaint, dated June 3, 2024 [ECF No. 52] (the “Second Amended Complaint”). The Second Amended Complaint does not contain any new claims against any of the Defaulting Defendants. Therefore, pursuant to Fed. R. Civ. P. 5(a)(2), service of the Second Amended Complaint upon the Defaulting Defendants was not required.

L. On October 9, 2024, the Clerk of this Court issued a Clerk’s Certificate of Default against Defaulting Defendants [ECF No. 64].

M. On October 23, 2024, Plaintiff filed the Motion, which was served on Defaulting Defendants. No response from any of the Defaulting Defendants has been received nor have any of the Defaulting Defendants appeared in this action.

N. The Defaulting Defendants are alleged to have interests junior to the lien of Plaintiff’s mortgage and were named as defendants to this action solely for that reason.

JUDGMENT AND DECREE

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
THAT:

1. Pursuant to Fed. R. Civ. P. 55(b), a default judgment is issued and entered in this action in favor of Plaintiff and against Defaulting Defendants.
2. The remaining branches of the Motion shall be resolved by separate order and judgment, and nothing contained herein shall be deemed or otherwise construed as an order, judgment, or decree as to any other branch of the Motion not specifically addressed herein.

Dated: March 19, 2025
New York, New York

Jessica Clarke
JESSICA G. L. CLARKE
United States District Judge